



## Rule and Interpretive/Policy Statement Review Checklist

This form is to be used when the current version of the rule or interpretive or policy statement has not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.

Document Reviewed: **WAC 458-20-255 Carbonated beverage and syrup tax**

Date last adopted/issued: **November 6, 1998**

Reviewer: **Gayle Carlson**

Date review completed: **January 20, 2004**

Briefly explain the subject matter of the document:

**This rule explains the taxation of carbonated beverages and syrup used for carbonated beverages. The tax is in addition to all other taxes, and not in lieu of any other taxes. It also states the tax on sales of carbonated beverages was repealed effective July 1, 1995. The syrup tax still applies.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

### 1. Public requests for review:

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

### 2. Need:

YES	NO	
<b>X</b>		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	<b>X</b>	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
	<b>X</b>	Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
<b>X</b>		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)



Please explain.

- **This rule provides definitions, reporting instructions, and explains exemptions and potential credit to a specific class of taxpayers.**
- **WAC 458-20-255 was last revised in November 1998. At that time it was noted that the carbonated beverage tax was repealed (effective 7/1/1995), but the rule still included information explaining the applicable taxability for sales made through June 30, 1995.**

**3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:**

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

**(a)**

YES	NO	
	X	Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
X		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

**(b)**

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**When this rule is next revised, the Department should consider incorporating information from the following:**



- **Det 00-113, 20 WTD 111, which explains that syrup sold for frozen carbonated beverages (FCBs) is subject to syrup tax under Chapter 82.64 RCW.**

**4. Clarity and Effectiveness:**

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities or help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.

- **The rule is written in a clear and concise manner, but a change in format of the examples could result in easier reading.**
- **The repeal of the carbonated beverage tax, effective July 1, 1995, remains incorporated in the rule. As the law change is now past the statutory non-claim period, references to the carbonated beverage tax could be removed.**

**5. Intent and Statutory Authority:**

YES	NO	
X		Does the Department have sufficient authority <b>to adopt</b> this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statute(s) that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed <b>to implement</b> ?) If “no,” identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

- **RCW 82.32.300 and 82.01.060(2) authorize the Department to adopt and publish rules to explain the provisions of the Revenue Act.**

**6. Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?



Please explain.

- **The Department has the authority to administer the syrup tax, and was authorized to collect the carbonated beverage tax prior to its repeal.**

**7. Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	<b>X</b>	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

- **This rule does not impose any additional administrative burden, other than what is already imposed by law. It is an interpretive document for the law.**

**8. Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
<b>X</b>		Does the document result in equitable treatment of those required to comply with it?
	<b>X</b>	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	<b>X</b>	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

- **This rule provides for the reporting of syrup tax, and any exemptions or credits that may apply. The rule was amended in 1998, at which time the carbonated beverage tax had been repealed. As the taxability of the carbonated beverage tax was still within the statute period provisions for reporting it were included in the 1998 revision. The Department has not experienced significant challenges to the provisions of this rule since the 1998 revision.**

**9. LISTING OF DOCUMENTS REVIEWED:** Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA) decisions, and Appeals Division decisions (WTDs) should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented: **Chapter 82.64 RCW - Carbonated Beverage Tax.**



Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs): **None.**

Court Decisions: **None.**

Board of Tax Appeals Decisions (BTAs): **None.**

Appeal Division Decisions (WTDs):

- **Det. 00-113, 20 WTD 111 Syrup tax due on syrups used to produce "frozen carbonated beverages."**

Attorney General Opinions (AGOs): **None.**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

- **Chapter 7, Laws of 1994 sp.s. (repeal of carbonated beverage tax)**
- **RCW 66.28.010 - Manufacturers, importers, and distributors barred from interest in retail business or location - ...Exceptions.**
- **WAC 458-20-193 (Inbound and outbound sales of tangible personal property.)**

#### 10. Review Recommendation:

<u>  X  </u>	<b>Amend</b>
<u>      </u>	<b>Repeal/Cancel</b> (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
<u>      </u>	<b>Leave as is</b> (Appropriate even if the recommendation is to incorporate the current information into another rule.)
<u>      </u>	<b>Begin the rule-making process for possible revision.</b> (Applies only when the Department has received a petition to revise a rule.)

**Explanation of recommendation:** Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

**The rule as written is correct, but it includes taxability, exemption, and credit information for carbonated beverage tax which was repealed in 1995. While the rule recognizes that the carbonated beverage tax was repealed effective July 1, 1995, there is no longer any need for**



**information regarding the beverage tax. The rule would be easier for taxpayers to follow if the taxability of carbonated beverage is removed.**

**11. Manager action:** Date: February 19, 2004

AL Reviewed and accepted recommendation

Amendment priority (to be completed by manager):

     1  
     2  
  X   3  
     4